

**COMMONWEALTH OF KENTUCKY
MINE SAFETY REVIEW COMMISSION
ADMINISTRATIVE ACTION NO. 01-MSRC-002**

**COMMONWEALTH OF KENTUCKY,
DEPARTMENT OF MINES AND MINERALS**

COMPLAINANT

V.

LARRY ISON, et al.

RESPONDENT

FINAL ORDER

Procedural History

On November 21, 2001, the Kentucky Department of Mines and Minerals (KDMM) filed a Complaint, 01-MSRC-002, with the Kentucky Mine Safety Review Commission (MSRC), containing several allegations against the Respondents, Charles Hensley, Larry Ison, James Helton, Verling Hall, and Lawrence Vanover. First, the Complaint alleged that at all relevant times, Respondent Hensley was the third shift mine foreman at the Fox No. 1 underground mine, located on Defeated Creek near Skyline, Letcher County, Kentucky.

The Complaint also alleged that Respondent Ison was at all relevant times the third shift section foreman on the 007 section at the No. 1 mine. It was also alleged that Respondent Helton was at all relevant times the chief electrician at the Fox No. 1 mine. Other allegations included in the Complaint were that Respondent Hall was at all relevant times the mine superintendent and that Respondent Vanover was at all relevant times the general manager of

Fox Mining.

It was further alleged that at 11:00 p.m. on December 20, 1997, the third shift maintenance crew began work on the 007 section, under the direct supervision of Respondents Hensley and Ison. Said crew was assigned to move the section power center and to perform maintenance work. Daily maintenance and electrical work orders were written by the section repairmen and by the chief electrician, Respondent Helton.

The Complaint further alleged that the decedent, Paul Dean Campbell, had been a repairman at the No. 1 mine for 11 months, and although not a certified electrician, was routinely given work orders to perform electrical work, in violation of KRS 351.109 and 30 CFR, Section 75.511. In addition, it was alleged that Respondents, Hensley and Ison oversaw the moving of the section power center while it was energized, during the third shift of December 20-21, 1997.

According to the Complaint, once the section power center was moved to its new location, the decedent began working on the power center to change the female receptacle for the continuous mining machine. During this time Mr. Campbell came into contact with 7,200 volts of electricity and was electrocuted.

KDMM alleged that when Campbell was electrocuted, his foremen, Hensley and Ison, were within sight and sound of him, yet they did not insure that the power circuit was de-energized, locked and tagged before electrical work was performed. It was also alleged that although Helton, Hall and

Vanover were not present when Campbell was electrocuted, they knew that Campbell routinely performed electrical work that he was not qualified or certified to perform and for which no supervision was provided. Said actions were alleged to be in violation of KRS 351.109 and KRS 352.230(7).

It was further alleged that Paul Dean Campbell was electrocuted as a result of mine management's failure to insure that electrical work was done safely and properly by certified electricians at the Fox No. 1 mine in accordance with state and federal law. KDMM also alleged that because of Respondents Hensley's, Ison's, Hall's and Vanover's actions, they were unworthy to hold their Kentucky foremen's certificates. In addition, it was alleged that because of Respondent Helton's actions, he is unworthy to hold his Kentucky electrician's certificate. KDMM requested that this Commission revoke the Respondents' respective foremen's certificates and electrician's certificate for a period of time to be determined by the Commission. It was further requested that upon the expiration of the revocation periods, that the Respondents be required to re-take and pass the Kentucky mine foremen's or electrician's exam prior to applying for reinstatement of their certificates.

Jurisdiction in this matter was founded on KRS 352.390. Said statute provides:

The Mine Safety Review Commission shall revoke, suspend, or probate certificates if it is established in the judgment of the Commission that the holder has become unworthy to hold the certificate by reason of violation of law, intemperate habits, incapacity, abuse of authority, failure to comply with the mining laws of the Commonwealth of Kentucky, or for other just cause. The same procedure provided in subsections

(10) and (11) of KRS 351.102 shall apply to the certificate holder.

At the probable cause hearing on November 30, 2001, the Commissioners reviewed the Complaint and found probable cause to believe that Respondents Charles Hensley, Larry Ison, and James Helton had committed violation(s) of Kentucky's mine safety laws. Subsequently, an Order finding probable cause was entered and a Notice of Administrative Hearing was filed. The members of the Commission dismissed the case against Verling Hall and Lawrence Vanover without prejudice as they found the allegation of knowledge submitted in the Complaint to be insufficient to support a finding of probable cause.

On January 2, 2002, Respondent Helton filed an Answer, wherein he denied ordering the decedent to perform any electrical work in violation of KRS 351.109. Respondent Hensley filed an Answer on January 11th admitting that he was at all relevant times the third shift foreman at the Fox No. 1 mine. Hensley denied that the power center was moved while energized under his direct supervision. Finally, Respondent Ison filed an Answer on February 11, 2002 admitting that he was employed as a foreman at the No. 1 mine and denying all other allegations relative to moving the power center without ensuring that it was de-energized.

The Respondents, concerned about the potential use of information in this administrative proceeding to obtain federal convictions against them, raised the Fifth Amendment. The matter was resolved when Assistant United States Attorney H. Davis Sledd wrote a letter dated April 17th confirming that

there would be no federal criminal prosecution of either James Helton or Charles Hensley.

On June 13, 2002, KDMM filed a Complaint, 02-MSRC-007, with the Commission, containing several allegations against the Respondents, Verling Hall and Lawrence Vanover. Jurisdiction in this matter was founded on KRS 352.390. In this Complaint, KDMM alleged that Respondent Hall, was a foreman certified by the Commonwealth of Kentucky and that at all relevant times he was the superintendent of the Fox No. 1 mine. It was also alleged that although Hall was not present when Campbell was electrocuted, he knew or should have known that Campbell routinely performed electrical work that he was not qualified or certified to perform.

This Complaint also alleged that Lawrence Vanover was a foreman certified by the Commonwealth of Kentucky and that at all relevant times he was the general manager of Fox Mining, which included supervisory responsibilities over the No. 1 mine. Although Respondent Vanover was not present when Campbell was electrocuted, it was alleged that he knew or should have known that Campbell routinely performed electrical work that he was not qualified or certified to perform.

KDMM alleged that the Respondents failed in their responsibility to ensure that mine safety laws were complied with. Said actions were alleged to be in violation of KRS 352.350 which states that the mine superintendent, mine foreman and assistant foreman are to be held “jointly responsible for ... compliance with the provisions of KRS Chapter 351 and [Chapter 352].”

Furthermore, it was alleged that the Respondents were directly responsible for the safe operation of the mine, including insuring the safety of those miners performing, or affected by, electrical work at the mine. Said actions were alleged to be in violation of KRS 351.109 and KRS 352.230(7).

KDMM alleged that the Respondents' foreman's certificates be revoked for a period of time to be determined by the Commission, and that upon expiration of the revocation periods, the Respondents be required to re-take and pass the Kentucky mine foreman's examination prior to applying for reinstatement of their certificates. Finally, KDMM requested that the case be consolidated with 01-MSRC-002.

The Respondents, concerned about the potential use of information in this administrative proceeding to obtain federal convictions against them, raised the Fifth Amendment. The matter was resolved when Assistant United States Attorney H. Davis Sledd wrote a letter dated June 19th confirming that there would be no federal criminal prosecution of either Verling Hall or Lawrence Vanover.

At the probable cause hearing on June 13, 2002, the Commissioners reviewed the Complaint and found probable cause to believe that Respondents Verling Hall and Lawrence Vanover had committed violation(s) of Kentucky's mine safety laws. Subsequently, an Order finding probable cause was entered and a Notice of Administrative Hearing was filed.

A Joint Motion to Approve Settlement Agreement and a proposed Settlement Agreement between KDMM and Verling Hall was filed on July 26,

2002. The Commission reviewed the documents and voted to approve them. A Final Order resolving all claims with Verling Hall was entered on August 15, 2002. The Respondent's underground mine foreman's license, issued by the Commonwealth of Kentucky, was revoked for a period of five (5) years.

On July 30, 2002, Respondent Vanover filed an Answer, wherein he denied all allegations filed against him. Respondent Hensley filed a Motion to consolidate 01-MSRC-002 with 02-MSRC-007 on August 15th. In a prehearing conference order dated August 19, 2002, the motion to consolidate the cases was granted.

Respondent Vanover filed a Motion to Dismiss on October 15, 2002. The issues were briefly extensively by the parties. Following careful review of the documents filed, the Commission issued an Order on December 20, 2002 denying Respondent Vanover's Motion to Dismiss. Respondent Vanover, in turn, filed an Answer on December 30th.

A Joint Motion to Approve Settlement Agreement and a proposed Settlement Agreement between KDMM and James Helton was filed on October 24, 2002. The Commission reviewed the documents and voted to approve them. A Final Order resolving all claims with James Helton was entered on November 25, 2002. The Respondent's electrician's certificate, issued by the Commonwealth of Kentucky, was revoked for a period of five (5) years.

On November 6, 2002, Thelma Campbell, wife of deceased miner, Paul Dean Campbell, moved to intervene. The remaining Respondents objected. In an Order dated November 25, 2002, the MSRC overruled Ms. Campbell's

Motion to Intervene as a party. Recognizing however, that Ms. Campbell might be able to provide relevant evidence as to a possible penalty, the Commission allowed her to proceed as an amicus curiae. The Order limited Ms. Campbell's participation to issues of penalty or sanctions, and permitted her to submit an amicus brief relative to the aforesaid issues, to be considered before the Commission files its Final Order.

A Joint Motion to Approve Settlement Agreement and a proposed Settlement Agreement between KDMM and Charles Hensley was filed on January 8, 2003. The Commission reviewed the documents and voted to approve them. A Final Order resolving all claims with Charles Hensley was entered on February 21, 2003. The Respondent's underground mine foreman's certificate, issued by the Commonwealth of Kentucky, was revoked for a period of two (2) years.

On February 24, 2003, the MSRC sustained a Motion in Limine filed by Respondent Larry Ison to deny admission of evidence at trial pertaining to a federal settlement agreement between Fox Mining and the federal Mine Safety and Health Administration (MSHA). It was further ruled that citations of federal violations by Respondents Ison and Vanover were to be stricken from the record, and that testimony regarding violations of federal statutes and/or regulations would not be admitted into evidence at trial. The Commission found that to rule otherwise would be a denial of due process to the Respondents because they were not parties to the settlement and were never afforded an opportunity to present their cases or cross-examine witnesses in the federal

case. Thus the federal case is not res judicata as to either Larry Ison or Lawrence Vanover. The Commission overruled the Motion in Limine to the extent that proof of conduct that violates mining laws may be admissible during trial. Said ruling is affirmed again by the Commission. Finally, the Commission granted the Complainant's oral Motion to Amend the Complaint.

KDMM filed an Amended Complaint in 01-MSRC-002 (02-MSRC-007) on February 27, 2003. Respondent Ison filed an Answer to the Amended Complaint on March 7, 2003.

A Joint Motion to Approve Settlement Agreement and a proposed Settlement Agreement between KDMM and Lawrence Vanover was filed on March 5, 2003. The Commission reviewed the documents and voted to approve them. A Final Order resolving all claims with Lawrence Vanover was entered on April 1, 2003. The Respondent's underground mine foreman's certificate, issued by the Commonwealth of Kentucky, was placed on probation for a period of two (2) years.

An administrative hearing was held in this matter on April 23rd and 24th, 2003. The Honorable Tony Oppgard represented the Complainant, Kentucky Department of Mines and Minerals. The Honorable Billy R. Shelton represented the Respondent, Larry Ison. The Honorable Steven A. Sanders represented Thelma Campbell, Amicus Curiae.

The Complainant entered 13 exhibits and called six witnesses to testify. The Respondents entered 1 exhibit and called one witness to testify. The parties have filed post-hearing briefs as agreed to during the final day of

hearing. After considering the evidence presented at the administrative hearing, and the briefs of all of the parties, the Commission submits the following Findings of Fact, Conclusions of Law, and Final Order.

Findings of Fact

Based upon the evidence admitted, and the record taken as a whole, the Commission finds the following facts as established by a preponderance of the evidence:

1. Larry Ison was the third shift, bull crew foreman on the 007 section at the Fox No. 1 mine, an underground coal mine located on Defeated Creek in Letcher County Kentucky and operated by Fox Mining Corporation. Ison is an underground mine foreman certified by the Commonwealth of Kentucky and holds certificate # A-***-**;

2. Paul Dean Campbell was killed as a result of electrocution during the third shift at Fox Mining in Letcher County Kentucky on December 27, 1997. Mr. Campbell was not a certified electrician but was performing electrical work for Fox Mining. The testimony at the hearing revealed that Fox Mining was in a state of some disarray. There was testimony that the equipment was in bad condition and that there were frequent turnovers in the electrical personnel at the mine;

3. Electricity is used in the mine to run various pieces of equipment, charge batteries, and provide lights in the mine. Electricity comes into the mine through a single cable carrying 7,200 volts of electricity. First, the cable goes to a “splitter box.” The splitter box divides the electricity and sends it to

two separate operating units in the mine. One of those units was the unit that Respondents Ison, Campbell and Hensley were working on December 27th. When the electricity leaves the splitter box to their unit, it goes to a “splicer box.” A splicer box is a box in which the power is connected to a cable and that cable in turn is connected to the power center. It is called a splicer box because it allows cable to be added to the power center as it is moved closer to the face of the coal. The power center, sometimes referred to as a distribution center, also serves as a transformer reducing the amount of volts of electricity in use. The equipment, machines, battery chargers and other electrical equipment used in the mine are plugged into the power center for their source of power;

4. Charles Hensley holds a foreman’s certificate issued by the Commonwealth of Kentucky. He had been working on a mining crew when he was laid off by Fox Mining for failing to meet the company’s expectations. Three or four days later, he was called back to the mine by Lawrence Vanover to supervise the maintenance crew and the bull crew, two separate crews on the third shift. Mr. Vanover instructed Mr. Hensley to improve the performance of those two crews;

5. The mine management made no communication to Respondent Ison or to the other miners working on the third shift concerning Mr. Hensley’s job title, duties or description;

6. Mr. Hensley testified that he told many of the miners working on the third shift at Fox Mining that he was there to “straighten things up and to get things done”;

7. Mr. Ison still considered himself foreman of the bull crew, yet both he and Mr. Hensley testified that Mr. Hensley was Mr. Ison's boss;

8. At some point during the shift Mr. Hensley took some of the miners out of the mine and as he was leaving made a statement that "the damn power center had better be moved when I get back." Mr. Hensley testified that he made this statement in a joking manner and was not serious. However, Mr. Ison testified that he did not take it as a joke and believed Mr. Hensley was serious;

9. Mr. Hensley testified that he exited the mine with the other miners and passed by the "splitter box," a point at which power could be cut off to the splice box and the power center. He testified that he did not de-energize the splitter box, nor was he ever asked to. He further testified that he did not instruct any one else to de-energize the splitter box;

10. While Mr. Hensley was gone, Mr. Ison began the power move. Mr. Ison testified that he believed that Mr. Hensley had de-energized the power by cutting off the power at the splitter box. However, Mr. Ison admitted that he did not tell Mr. Hensley to do this, nor did he ask him if he had done so on his return to the section;

11. The power center was moved by hooking two scoops to it to pull it up an incline. Following the completion of the physical movement of the power center Mr. Ison was in-by the power center cleaning loose coal from the front of the power center. Mr. Hensley's location at this time is somewhat in dispute but the best evidence indicates that he was in-by Mr. Ison at the time of the

accident;

12. Both Mr. Ison and Mr. Hensley heard a loud bang and went to the area of the splice box where Mr. Campbell was found slumped over the splice box;

13. At the time of Mr. Campbell's death, the power was off at the power center on the 007 section at the Fox No. 1 Mine. However, power was still present at the adjacent splice box and at the splitter box, out-by the splice box, because power had not been cut off at the splitter box;

14. Circumstantial evidence recovered at the scene indicates that Mr. Campbell was changing a female receptacle on the power cord. Apparently, he was part way through the removal of the old female receptacle when he removed the lid from the splice box while attempting to do some sort of work on the splice box. Various speculation was made as to why he was working on the splice box but no real evidence is available to show his reason for doing so;

15. There were several safety features on the splice box which failed to work and thus failed to protect Mr. Campbell. There were two switches on the inside of the splice box that were supposed to spring up when the lid was removed, causing a ground condition and shutting the power off to the splice box. One of these spring-loaded safety devices appeared to have been tampered with, but no evidence was offered to indicate who had performed such an alteration. The other spring-loaded safety device operated, but failed to protect Mr. Campbell because a ground wire and a ground monitor wire had come in contact inside the splice box;

16. The best evidence was that this joining of the ground wire and the ground monitor wire was an accidental occurrence because there was no permanent attempt to join these wires, which would be expected in an intentional effort to defeat the system. Speculation was made that this could have occurred during the physical movement of the splice box during the power move, but once again, it is not possible to know this for sure;

17. Respondent Ison admits that he was in charge of the power move and that he failed to insure that the power was de-energized at the splitter box;

18. The best method for insuring that power is de-energized is to lock out and tag the piece of equipment. A certified electrician should do this. Mr. Ison testified that it was common practice at this mine, and at others where he had worked, for non-certified electrical people to de-energize the power supplies. However, he admitted that he knew the proper method was to lock out and tag the equipment;

19. The manner used by Mr. Ison in the past, of sending a general laborer or other inexperienced miner to turn off the power at the splitter box, is not a safe method. It is also improper for foremen such as Mr. Ison and Mr. Hensley, to make assumptions that someone has turned off the power to a piece of equipment without making sure of it themselves. The best method, once again, is to have a certified electrician lock out and tag the equipment;

20. The death of Paul Dean Campbell resulted from a coalescence of several independent factors that all operated in concert to cause the normal protections for Mr. Campbell to fail;

21. First, mine management failed to see that the third shift had a certified electrician on duty, even though they knew electrical work requiring a certified electrician was to be done;

22. Second, Mr. Helton ordered electrical work to be done by the third shift, knowing that no certified electrician was present;

23. Third, mine management failed to effectively communicate to Larry Ison and the other miners working the third shift what Mr. Hensley's job description, title, and responsibilities would be. This contributed to the confusion present on the section that night;

24. Fourth, Mr. Hensley failed to adequately communicate with Mr. Ison as to whether or not he would de-energize the power at the splitter box and further failed to insure that the power had been locked out. Mr. Hensley admitted that he had no conversations with anyone concerning whether the power was off prior to or during the power move and admitted, "he didn't give it any thought." The Commission believes that this is an incredible statement for a foreman to make;

25. Fifth, Respondent Ison failed to insure that the power had been cut off at the splitter box and further failed to communicate with Mr. Hensley as to whether or not Mr. Hensley had de-energized the equipment. Larry Ison assumed that the power was out because the lights were not on the power unit and it was not humming. This was an improper and deadly assumption;

26. Sixth, Mr. Ison assumed that Mr. Campbell was a certified electrician because he was doing electrical work and because he carried a volt

meter. This assumption was incorrect. Both Mr. Ison and Mr. Hensley failed to ascertain whether or not Paul Campbell was a certified electrician. As a foreman, one may not make an assumption such as that made by Mr. Ison and Mr. Hensley and expect not to be accountable for a resulting injury or death;

27. Seventh, the automatic protection system on the splice box failed to work in part due to an intentional alteration by an unknown individual and in part due to an accidental condition of the ground wire and the ground monitor wire touching one another;

28. The real problem in this case is that Fox Mining was operating a sloppy mine in violation of many of the mining laws of the Commonwealth of Kentucky. Both the mine and its management should have insured provision of an electrician to perform the work of changing out the female receptacle. In addition, much of the equipment in the mine was defective. For example, the splicer box apparently had been tampered with because the safety device, which should have cut the power when the top of the box was removed, did not work. Also, the unintentional touching of the ground wire inside the box made the other safety equipment on the splicer box inoperative. All of these factors contributed to the accidental death of Paul Dean Campbell;

29. Both Mr. Ison and Mr. Hensley attempt to blame each other by saying that they each thought the other man was in charge of de-energizing the power. Either or both of them could have insured that the power was turned off and thus prevented the death of Mr. Campbell. They both failed to do so.

Conclusions of Law

A number of statutes cited throughout the pleadings were referenced during the course of the hearing. To assist the reader of this opinion, the relevant statutes and administrative regulations are set forth below:

KRS 351.109(1) provides:

An individual is a qualified and certified person, within the meaning of this chapter, to perform electrical work, other than work on energized surface, high voltage lines, if he has at least one (1) year of experience under direct supervision of a qualified electrician in performing electrical work underground in a coal mine, in the surface work areas of an underground coal mine, in a surface coal mine, in a noncoal mine, in the mine equipment manufacturing industry, or in any other industry using or manufacturing similar equipment, and he attains a satisfactory grade on each of the series of written tests administered by the department and required in subsection (2) of this section.

KRS 352.210 states in part:

No person shall knowingly . . . do any act endangering the life or health of any person employed in the mine or endangering the security of the mine.

KRS 352.230(7) states:

At all times when mining equipment is being used, it shall be maintained in safe working order.

805 KAR 3:090 provides in Section 1(18) as follows:

Electrical equipment shall be deenergized (sic) before work is done on such equipment. Switches shall be locked out and suitable warning signs posted by individuals who are to do the work; locks shall be removed only by authorized persons.

Based upon the findings of fact set forth above the undersigned members

of the Mine Safety Review Commission submit the following conclusions of law:

1. Jurisdiction of the Mine Safety Review commission in this matter is pursuant to KRS 351.1041 et seq. to conduct hearings and issue orders regarding a licensee involved in the mining of coal in accordance with KRS 351.194.

2. Respondent Larry Ison is duly licensed by the KDMM, and as such is required to comply with mine safety laws.

3. The burden of proof in this action is upon the KDMM.

1. Larry Ison “failed to comply with the mining laws of the Commonwealth of Kentucky.”

Final Order

After consideration of all of the factors listed in 825 KAR 1:030 the undersigned issues the following final order:

The Respondent Larry Ison has admitted that he acted in an unsafe manner on the night of Paul Dean Campbell’s death. He urges the Commission to enter a final order probating his Foreman’s Certificate for a period of one year. He argues that the Commission has previously approved a settlement of a case involving a power move where a foreman received probation for one year.

The KDMM argues that Mr. Ison has a great deal of culpability in this matter and request that the Commission enter a final order suspending Mr. Ison’s foreman’s certificate for a period of 4 years.

The Commission wishes to remind the Respondent and the department

that relying too heavily upon a penalty in another case for comparison purposes to the case at bar is a problematic practice. First, the Commission gives due deference to the thought that the parties know the case better than the Commission does prior to a Trial and therefore gives deference to settlement agreements that have been entered into voluntarily between the litigants. Second, the undersigned members of the Commission also wish to point out that the case where probation was given during a energized power move did not involve an injury or death.

American jurisprudence generally recognizes that penalties, whether civil or criminal are affected by at least three factors. First, what acts did the person alleged to be at fault commit? Second, what was that individual's mental state at the time of the commission of those acts? Third, what was the result of the act and the mental state? In other words, it is clear that an individual who drives drunk and is caught by the police as he pulls out of a parking lot without injuring anyone receives less of a penalty than that same individual if he had escaped the police officer and struck an innocent bystander and injured or killed him.

The Commission points out that its decision in this case is not an enforcement of federal law. This decision is an enforcement of conduct that violates both Kentucky and Federal law and as such is considered an unsafe mining practice. See, KRS 352.210 and KRS 352.230(7).

In this particular case the Commission believes that Mr. Ison's level of culpability is close to that of Mr. Hensley. Both individuals were superior to

Mr. Campbell and failed to insure his safety in several ways as set out above. However, Mr. Hensley was clearly Mr. Ison's boss on the night in question and based on the facts of this case bears more responsibility than Mr. Ison.

The Commission points out that other, more culpable, respondents received greater penalties as set forth in the Procedural History above.

The members of the Commission have considered probation but believe that it would unduly depreciate the seriousness of Mr. Ison's offense to impose a punishment of probation.

The actions of the Respondent, Larry Ison, demonstrate that he is unworthy to hold a Mine Foreman's Certificate. The Commission recognizes the responsibility placed on a mine foreman to abide by the laws and provide for the safety of the miners under their control and concludes that the failure to do so makes necessary the imposition of a significant penalty.

IT IS THEREFORE ORDERED, that Larry Ison's underground mine foreman certificate, number A- ***-**, shall be revoked for a period of eighteen (18) months effective thirty [30] days from the signing of this Final Order. If Mr. Ison wishes to become a certified mine foreman in the Commonwealth of Kentucky after the expiration of said revocation period, he shall retake and pass the Kentucky Mine Foreman's examination prior to reapplying to the Kentucky Mining Board for a foreman's certificate.

THIS IS A FINAL AND APPEALABLE ORDER. Pursuant to KRS 351.194(8), an appeal of this Final Order shall be filed in the Franklin Circuit Court within thirty (30) days of the entry of this order.

SO ORDERED, this the _____ day of May, 2003.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **FINAL ORDER** was mailed by certified mail, by regular mail, postage pre-paid, and by FAX to the following this _____ day of May, 2003:

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